

## **Chapter 121**

### **ENTERTAINMENTS AND AMUSEMENTS**

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**[HISTORY: Adopted by the Common Council of the City of Franklin as indicated in article histories. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

Mass public assemblies — See Ch. 83.

Licenses and permits — See Ch. 169.

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#### **ARTICLE I** **General Provisions**

**[Adopted 8-5-1997 by Ord. No. 97-1461  
as Sec. 13.03 of the 1997 Code]**

#### **§ 121-1. License fees.**

There is hereby imposed on every person conducting or engaging in the business of providing entertainment or amusement within the city a license fee as specified in Chapter 169, Licenses and Permits. Such license fee is in addition to all other taxes imposed by law or ordinance.

#### **§ 121-2. Term of license.**

The license shall be granted for a period of one year or part thereof and shall expire on June 30 following its issuance.

**§ 121-3. Exemptions.**

This article shall not apply to any person conducting or engaging in the business of providing entertainment or amusement where admission charges are to be used exclusively for charitable, eleemosynary, educational or religious purposes.

**§ 121-4. Definitions.**

When used in this article and unless otherwise distinctly expressed, the following words and phrases shall have the meanings set out herein:

CITY CLERK — The City Clerk for the City of Franklin.

ENTERTAINMENT AND AMUSEMENT — Includes, among others, the following: circuses, motion-picture shows, shows of all kinds, dance halls, all sporting contests and athletic events, including exhibitions, concerts, lectures, vaudeville, bowling, dancing, golf, swimming and bathing, side shows, amusement parks and all forms of recreation therein, operatic performances, theatrical performances and any other form of diversion, sport, pastime or recreation.

LICENSEE — Any person who conducts or engages in the business of providing entertainment or amusement and is required to obtain a license hereunder.

PERSON — Includes an individual, firm, corporation, company, partnership, association, unincorporated association and any person active in a fiduciary capacity.

**§ 121-5. Entertainment and amusement regulations. [Added 6-2-1998 by Ord. No. 98-1498<sup>1</sup>]**

All licensees, licensees' employees, persons under the direct supervision and control of a licensee and the premises supporting the activities for which an entertainment and amusement license has been granted under this section shall be subject to the following terms and conditions.

- A. Law compliance. The entertainment and amusement activities and all activities conducted or arising incidental or accessory thereto shall in all respects comply with the provisions of this section and all other applicable rules, regulations, orders, ordinances and statutes. The premises or place supporting entertainment and amusement license activities shall comply in all respects with the provisions of this section and all other applicable rules, regulations, orders, ordinances and statutes, specifically including, but not limited to, zoning regulations, building code requirements, fire prevention code and health code requirements.
- B. Alcohol beverage prohibition. No alcohol beverage, as defined under § 125.02(1) Wis. Stats., shall be possessed, consumed, sold or given away to any person upon any premises or place supporting entertainment or amusement required to be licensed by this section

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<sup>1</sup> Editor's Note: This ordinance also provided for the renumbering of former § 121-5, Temporary amusement and entertainment [Section 13.03(5) of the 1997 Code], as § 121-10.1.

during business hours or while open to the public or during any entertainment or amusement required to be licensed under this section unless the licensee and the premises hold and are the subject of, respectively, an alcohol beverage license applicable to the type of alcohol beverage possessed, consumed, sold or given away, notwithstanding whether such license is not otherwise required for mere possession.

- C. Closing hours. No premises or place supporting and no entertainment or amusement for which a license is granted under this section may remain open or occur between the hours of 2:00 a.m. and 6:00 a.m., excepting that on Saturday and Sunday, such closing hours shall be been 2:30 a.m. and 6:00 a.m.
- D. Curfew. No licensee, employee or person under the direct supervision or control of a licensee shall permit any person under the age of 17 years, unless accompanied by the person's parent, lawful guardian or custodian, to enter, remain in or upon or loiter in or upon any premises or place supporting any entertainment or amusement required to be licensed under this section between the hours of 11:00 p.m. and 6:00 a.m. next following. No person under the age of 17 years shall represent himself or herself to have reached the age of 17 years in order to obtain admission to or remain in or upon any premises or place supporting entertainment or amusement required to be licensed by this section if such person is in fact under the age of 17 years. No person shall represent himself or herself to be a parent, lawful guardian or custodian of any person, in order that such person may obtain admission to or remain upon or in any premises or place supporting entertainment or amusement required to be licensed under this section, when the person making the representation is not, in fact, a parent, lawful guardian or custodian of the other person.
- E. License nontransferable. Any license issued under this section shall be nonassignable and nontransferable from person to person or from one premises or place to another.

#### **§ 121-6. Lien for unpaid fees.**

A license fee due and unpaid under this article shall be a debt due to the city. It shall be the personal obligation of the person required to obtain a license and shall be a lien upon his or her property. Such lien shall have priority over all other liens and obligations except those due to this state and the United States. Such lien shall be enforced by the City Clerk as any other lien would be enforced against a defaulting debtor.

#### **§ 121-7. Penalties for nonpayment.**

Any person who fails to remit the amount of license fee when due shall, in addition to all other penalties, pay a penalty of 100% of the license fee due. For each successive seven days elapsing before payment, there shall be added an additional penalty of 10%.

#### **§ 121-8. Rules and regulations.**

The City Clerk may adopt rules and regulations not inconsistent with this article for the purpose of carrying out and enforcing the payment of the license fees herein imposed, and a copy of such rules and regulations shall be on file and available for public examination in the City

Clerk's office. Failure or refusal to comply with any rules and regulations promulgated under this article shall be a violation of this article.

**§ 121-9. Extraordinary entertainment and amusement (special) events. [Amended 10-20-1998 by Ord. No. 98-1512]**

- A. Purpose. The purpose of this section is to provide reasonable regulations for extraordinary entertainment and amusement (special) events in order to protect the public health, safety and welfare from the potential adverse effects which may arise from such special events or the large number of persons attracted to such events upon premises not regularly used for or developed to regularly accommodate such events or gatherings. Such regulations are intended to protect against traffic congestion; the overcrowding of lands; the potential for fires, explosion, riot or disorder or other dangers to persons or property; the diversion of public health, safety and emergency services from regular necessary duties; and the additional cost to the community of providing public services necessary to protect the public health, safety and welfare arising from such temporary special events; and to promote the preservation of public peace and order, the furtherance of sanitation and the safeguarding of the public health.
- B. Definition. A "special event" is a temporary entertainment and amusement activity, as defined under § 121-4, open to the general public and organized, produced or sponsored by a person, which event is extraordinary in that it is not ordinarily conducted on a daily or regular normal average use basis as a lawful use of the premises upon which such event is to occur, cannot be held completely within the confines of an existing building on such premises, and for which event it is reasonably anticipated that the number of persons attending will at any time exceed the maximum occupancy of the existing building(s) on the property or will substantially exceed the regular normal average patronage and traffic generated otherwise attending such premises as a result of its regular normal average and lawful use. Such special events include but are not limited to festivals, carnivals, athletic or contest tournaments, picnics and fairs.
- C. License required. Any person, whether or not holding an entertainment and amusement license, under this section intending to hold, produce or sponsor a special event shall obtain a special event license prior to such event pursuant to the terms and provisions of this § 121-9.
- D. Exemptions. The exemptions under § 121-3 of this chapter shall not apply to a special event. This subsection shall not apply to:
  - (1) Any regularly established place of worship, stadium, athletic field, arena, auditorium, coliseum or other permanently established place of assembly for special events for which it is reasonably anticipated that the number of persons attending will not exceed by more than 250 people the maximum seating capacity of the structure where the assembly is held.
  - (2) Special events sponsored by the city or occurring upon public property and otherwise authorized or regulated by this Municipal Code, such special events being otherwise subject to governmental control to effectuate the purposes of this section.

## E. Regulations

- (1) Duration and hours of operation. The duration of any special event shall not exceed four consecutive days and any permit issued under this section shall specify the days upon which the event shall occur. No special event shall be open to the public except between the hours of 8:00 a.m. and 10:00 p.m. on any Sunday through Thursday and 8:00 a.m. and 11:00 p.m. on any Friday and Saturday occurring within the duration of the special event. Such permit shall also specify the hours during which pre-event setup and postevent takedown operations may occur and no such operations may be conducted other than as so specified. [Amended 8-5-2003 by Ord. No. 2003-1758]
- (2) Maximum attendance. A special event license shall specify the maximum peak number of people to attend the special event. The licensee shall not sell tickets to nor allow the attendance of more people at the special event at any time than as specified in the license. Any tickets sold or advertisement made prior to the grant of a license under this section and the satisfaction of all conditions of such license shall include therein, in like medium, a statement that "the occurrence of the (special event) remains subject to the approval of the City of Franklin."
- (3) Parking. Off-street parking areas are required for each special event so as to provide parking space for the maximum anticipated attendance specified in the license, at the rate of at least one parking space for every three persons. Such parking areas shall be specified within the application and shall be located upon the special event premises; upon separate premises within 1,000 feet of the special event premises or upon premises located more than 1,000 feet away from the special event premises, provided that the licensee provides a vehicular shuttle service to and from such away parking area which operates in fifteen-minute round-trip intervals at all times during the event and continuing for 30 minutes following the close of the event on any day. All temporary parking facilities for special events shall be maintained free of dust or mud and all dirt or mud tracked onto the public right-of-way shall be cleared and removed within two hours following the close of the event on any day. The Police Department shall only post temporary parking-related regulations on public streets for special events if determined necessary by the Police Chief for public traffic safety or as may be directed by the Common Council within the license approval process.
- (4) Sanitary facilities and potable water. All sanitary facilities and potable water facilities shall be provided for the special event as required in the Building Code<sup>1</sup> for places of public assembly.
- (5) Illumination. If the special event is to continue during hours of darkness, illumination shall be sufficient to light the entire area of the event at the rate of at least five footcandles, without the spillage of such illumination unreasonably beyond the boundaries of the special event premises.
- (6) Telephones. Telephone facilities for outside calling shall be provided and posted at each special event so as to provide at least one telephone for each 1,000 persons anticipated to attend as specified in the license.

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<sup>1</sup> Editor's Note: See Ch. 92, Building Construction.

- (7) Noise. No licensee shall permit any sound created by the special event activity to carry unreasonably beyond the boundaries of the special event premises.
- (8) Security. Private security guards licensed by the State of Wisconsin shall be provided for a special event at the rate of at least one security guard for every 750 people anticipated to attend the special event as set forth in the license. No such security guard shall be armed unless the applicant sets forth on the application the intention that security guards shall be armed and, prior to the approval of the application, the applicant obtains the written approval of the Chief of Police determining that all such armed security guards meet all of the criteria and requirements set forth under § 941.237(3)(cm) and 167.31(4)(a)4, Wis. Stats., and that the state licenses required under such statutes are permanent and not temporary licenses. Any such armed security guards shall be in full compliance with and not violate any other governmental law, statute, regulation, rule, order or ordinance at all times during, or while acting in relation to, the special event. **[Amended 6-22-1999 by Ord. No. 99-1561]**
- (9) Fire protection. A licensee shall provide all fire protection applicable to the special event activities and premises as required by the municipal Fire Prevention Code<sup>2</sup> and the Wisconsin Administrative Code, including alarms, extinguishing devices, fire lanes and fire escapes.
- (10) Compliance with other code provisions. No special event shall occur unless all other necessary municipal permits, licenses and approvals applicable to the special event activities have been granted and any license granted under this section shall be conditioned upon the licensee obtaining all such other licenses, permits and approvals.

F. Application.

- (1) Any person intending to hold, sponsor or produce a special event shall make written application for a special event license and file same with the City Clerk at least 30 working days prior to the date of the special event.
- (2) The application shall contain a statement made upon oath or affirmation that the statements contained therein are true and correct to the best knowledge of the applicant and shall be signed and sworn to or affirmed by the individual making application in the case of an individual, by an authorized officer in the case of a corporation, by a general partner in the case of a partnership or by all officers of an unincorporated association, society or group or, if there be no officers, by all members of such association, society or group.
- (3) The application shall contain and disclose:
  - (a) The name, address and home and business telephone numbers of the authorized representative of the applicant who shall be responsible for the conduct of the special event and available to the City at all times for all communications and necessary contacts.

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<sup>2</sup> Editor's Note: See Ch. 133, Fire Prevention.

- (b) The name, age, residence and mailing address of all persons required to sign the application and, in the case of a corporation, a certified copy of the articles of incorporation, together with the name, age, residence and mailing address of each person holding 10% or more of the stock of said corporation.
- (c) The address and legal description of all property upon which the special event is to be held, together with the name, residence and mailing address of the record owner(s) of all such property.
- (d) Proof of ownership of all property upon which the special event is to be held or a statement made upon oath or affirmation by the record owner(s) of all such

(Cont'd on page 12107)

property that the applicant has permission to use such property for the special event.

- (e) The nature or purpose of the special event.
- (f) The total number of days and/or hours during which the special event is to last, including setup and takedown operations.
- (g) The maximum number of persons which the applicant shall permit to attend at any time, not to exceed the maximum number which can reasonably assemble at the location of the special event in consideration of the nature of the special event.
- (h) The maximum number of tickets to be sold, if any.
- (i) The plans of the applicant to limit the maximum number of people permitted to assemble. ;
- (j) Any plans for fencing the location of the special event and the gates contained in such fence.
- (k) The plans for supplying potable water, including the source, amount available and location of outlets.
- (l) The plans for providing toilet and lavatory facilities, including the source, number and location, type and the means of disposing of waste deposited.
- (m) The plans for holding, collection and disposing of solid waste material.
- (n) The plans, if any to illuminate the location of the special event, including the source and amount of power and the location of lamps.
- (o) The plans for parking vehicles, including size and location of lots, points of highway access and interior roads, including routes between highway access and parking lots and any shuttle service.
- (p) The plans for telephone service, including the source, number and location of telephones.
- (q) The plans for security, including the number of guards, their deployment and their names, addresses, credentials and hours of availability.
- (r) The plans for fire protection, including the number, type and location of all protective devices, including alarms and extinguishers, and the number of emergency fire personnel available to operate the equipment.
- (s) The plans for sound control and sound amplification, if any, including number, location and power of amplifiers and speakers.
- (t) The plans for food and beverage concessions and concessioners who will be allowed to operate on the grounds, including the names and addresses of all concessioners and their license or permit numbers.
- (u) The plans and specific description for each of any other type of vendor or amusement or entertainment provider who will be allowed to operate on the



grounds, including the names and addresses of all such vendors and their license or permit numbers, if any.

- (4) No application shall be accepted as filed until the City Clerk determines that the information in the application is complete and sufficient for filing purposes as required under this Subsection F. Upon filing, the Clerk shall distribute copies of the application to the Police, Fire, Health, Planning, Building Inspection and Engineering Departments and Common Council members.
- G. Indemnity. The special event license application shall contain a statement that: "The applicant agrees to indemnify and save harmless the city from and against all liabilities, claims, demands, judgments, losses and all suits at law or in equity, costs and expenses, including reasonable attorney fees, for injury or death of any person or loss or damage to the property of any person, firm, organization or corporation, arising in any way as a consequence of the granting of a license for a special event." No license may be issued unless the applicant has agreed to the terms of this statement on the written application.
- H. Insurance. Each applicant for a special event license shall furnish to the city, no later than 10 days prior to the special event, a certificate of insurance written by a company licensed in the State of Wisconsin, approved by the City Attorney and covering any and all liability or obligations which may result from the operations by the applicant's employees, agents, contractors or subcontractors and including workers' compensation coverage in accordance with Ch. 101, Wis. Stats. The certificate shall provide that the company will furnish the city with a ten-day prior written notice of cancellation, nonrenewal or material change. The insurance shall be written in comprehensive form and shall protect the applicant and city against all claims arising from injuries to members of the public or damage to property of others arising out of any act or omission of the applicant, its employees, agents, contractors and subcontractors. The policy of insurance shall provide minimum combined single limits for bodily injury and property damage of at least \$1,000,000 per person/aggregate.
- I. License fees. Concurrent with the filing of any application for a special event license, the applicant shall pay a nonrefundable license administration and review fee to the city in the amount of \$100. In addition, a special event licensee shall be responsible for and pay to the city a fee for all city fire and police services provided by the city for the special event. Such police and fire services special event fee shall not exceed the actual cost of providing the services. Such fee shall be paid to the city by the licensee within 10 days of the date of the itemized invoice for same prepared by the city subsequent to the special event. Prior to any Common Council approval of a special event license, the Police Chief and Fire Chief shall review the application and report to the Common Council their respective findings as to the reasonable estimates of the costs of providing police and fire services reasonably required by the special event. The licensee shall provide the Chiefs with all information necessary to determine the level of services required. After reviewing such reports, upon which the applicant may be heard, the Common Council shall specify as a condition of the license that the applicant deposit with the city security in the form of a bond, letter of credit or cash deposit, in form approved by the City Attorney in an amount determined to be sufficient to guarantee payment for the anticipated cost of providing such special event police and fire services. Such security deposit shall be made by the licensee no later than 10 days prior to the special event. Such security deposit shall entitle the city to draw upon same forthwith upon any default in payment by the licensee after services invoice, with

remaining balance of any cash deposit to be returned to the licensee. Any determined deficiency for such service fees beyond the security deposit shall be a debt of the licensee to the city, collectible by the city in an action at law, which shall also entitle the city to all costs of collection, including attorney fees, and further, shall also constitute a lien against the special event premises to be placed upon the tax roll for such premises. If the Public Health Officer reports the need for an extra (nonstaff) rostered sanitarian for the special event, the above terms and provisions pertaining to police and fire services and costs shall likewise apply to such extra sanitarian services and costs.

- J. Approval or denial of application. Upon receipt of a completed application, the City Clerk shall submit the application for review to the Common Council, which shall approve, conditionally approve or deny the license within 20 working days of its filing. The Common Council shall have the authority to modify the time and place or specified activities of a special event to facilitate crowd control in the interests of relieving congestion and promoting public safety. The Common Council shall issue the license if it complies with all terms and provisions of this section. Grounds for denial of the application shall include:
- (1) Any false or misleading statements set forth upon the application.
  - (2) The special event is of such a size or nature so as to require the diversion of so great a number of municipal police or fire services so as to deny reasonable police or fire services to the city as a whole.
  - (3) The time, size and nature of the special event would unduly disrupt the safe and orderly use of any street or public place, or material portion thereof, which is ordinarily subject to congestion or traffic at the proposed time or substantially interrupts the safe and orderly movement of traffic.
  - (4) The vehicles, temporary structures, sanitary facilities, tents, equipment or other materials used in the special event do not comply with or meet all applicable health, fire or safety requirements.
  - (5) The special event will interfere or conflict with another special event for which an application had been previously filed or with a construction or public works project.
  - (6) The conduct of the special event will be contrary to law, including noise regulations.
  - (7) Either the applicant or a proposed special event were previously licensed for a prior special event under this section and violated any term of this section while operating under such license.
- K. Appeal of application denial. Any applicant who has been denied a special event license may, upon written request within five days of denial have the denial reviewed by the Municipal Court Judge, who shall either affirm or reverse the initial action on the application. Such determination by the Municipal Court Judge shall constitute final action. If the Municipal Court Judge is unable to hear the matter prior to the proposed date of the special event, the applicant may seek judicial review of the denial.
- L. Enforcement. Any person who violates any provision of this section or who violates any condition upon which a special event license is granted shall be subject to a forfeiture of not less than \$1,000 nor more than \$10,000. Each day of violation shall be considered a

separate offense. In addition, the city may enforce this section by way of injunctive relief and all other remedies available at law and in equity.

M. The terms and provisions of § 121-5B, C and D shall not apply to special events.

**§ 121-10. Tavern amusement licenses.<sup>4</sup>**

- A. Tavern music license. No person holding a retail Class "B" fermented malt beverage or intoxicating liquor license, nor its/his/her agents or employees, shall provide, maintain, suffer or permit in or upon the licensed premises any live music or music prerecorded and played for the entertainment of patrons by a person in the business of providing or performing prerecorded music shows without having first obtained a tavern music license therefor. The tavern music license shall be construed to permit singing; however, no dancing, meaning entertainment or exposition commonly designated as floor shows or cabaret shows, shall be permitted under such license.
- B. Tavern entertainment license.
- (1) No person holding a retail Class "B" fermented malt beverage or intoxicating liquor license, nor its/his/her agents or employees, shall provide, maintain, suffer or permit in or upon the licensed premises any entertainment or exposition consisting of dancing, meaning entertainment commonly designated as floor shows or cabaret shows, without having first obtained a license therefor as hereinafter provided. No additional tavern music license shall be required of any person holding a valid tavern entertainment license for music played or performed in conjunction with such dancing.
  - (2) No person shall be granted a tavern entertainment license if the licensed premises is located within 1,000 feet of any residential district, any public or private school, child-care center, church, religious institution, public park, adult-oriented establishment, as defined under Chapter 183, Orderly Conduct, Article I, Adult-Oriented Establishments, or any other premises required to obtain or holding a tavern entertainment license under this section.
  - (3) No person holding a tavern entertainment license shall suffer, allow or permit any employee or performer, and no employee or performer shall intentionally touch the clothed or unclothed body of any person at the premises, at any point below the neck and above the knee of the person, excluding that part of the person's arm below the wrist (hand). It shall further be unlawful for any person in or upon a tavern entertainment licensed premises, other than a licensee, employee or performer, to touch any portion of the clothed or unclothed body of a licensee, employee or performer below the neck and above the knee, excluding that part of the licensee's, employee's or performer's arm below the wrist (hand).
- C. Dancing upon tavern premises. No person holding a retail Class "B" fermented malt beverage or intoxicating liquor license shall permit dancing upon such licensed premises by any person, patron, employee or performer within six feet of any bar and back barwall

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<sup>4</sup> Editor's Note: See Ch. 158, Intoxicating Liquor and Fermented Malt Beverages.

or the area within three feet of any part of an exit door or toilet room door or any other exit or passageway or any toilet room or any other space or room which is not used exclusively by the public.

D. Application.

(1) Application for a license required by this section shall be made, in writing, upon a form prescribed by and filed with the City Clerk. The application herein required shall contain the following information:

- (a) The name and address of the person applying for the permit.
- (b) If the applicant is not an individual, the names and addresses of the applicant's principal officers and agent.
- (c) If the applicant, or in the event the applicant is not an individual person, if any member, managing officer or agent of the applicant has been convicted in a court of competent jurisdiction of any offense involving dishonesty or moral turpitude or has been convicted of any violation of law relating to the public health and safety within the five years immediately preceding the date of application, unless the applicant has been duly pardoned.
- (d) If the applicant has, within five years prior to the date of his or her application, been licensed to sell fermented malt beverage or intoxicating liquor; if any such license was suspended or revoked, and a statement of the reasons therefor.
- (e) A statement of the specific nature of the entertainment to be provided.
- (f) The location of the premises for which the license is sought and identification of the Class "B" fermented malt beverage or intoxicating liquor license held for the premises.
- (g) Such other and further information as may be reasonably required by the terms of this section.

(2) If, while any application is pending, or during the term of any license granted thereon, there is any change in fact that would alter the information given on the application, the applicant shall notify the City Clerk, in writing, thereof within 10 days after such change.

E. License fees. The fee for licenses issued pursuant to this section shall be as set forth in Chapter 169, License and Permits, for entertainment and amusement licenses. License fees shall accompany each application. In the event that the license is denied, the fee shall be refunded to the applicant. The full license fee shall be charged for the whole or fraction of the license year, except as provided in Subsection J.

F. License.

(1) Upon receipt of a proper application and the prescribed license fee, the City Clerk shall forward such application to the Common Council for consideration. Within 30 days of receiving an application, the Common Council shall grant or deny the license or hold the application for an additional 30 days, unless otherwise agreed to by the applicant.

- (2) The Common Council shall examine all applications filed as herein provided and shall make or cause to be made such further investigation of the application as it deems necessary. The Common Council shall approve a license only if it finds all of the following facts exist:
  - (a) That all of the statements made in the application are true.
  - (b) Subject to §§ 111.321, 111.322 and 111.335, Wis. Stats., that the applicant, or if the applicant is not an individual, that every member, managing officer or agent of the applicant has not been convicted of any offense involving dishonesty or moral turpitude and has not been convicted of any violation of the law relating to the public health and safety.
  - (c) That the premises for which a license is sought will comply with the provisions of this section and all other applicable rules, regulations, ordinances and state laws, specifically including, but not limited to, zoning regulations, building code requirements, fire prevention code and health code requirements.
  - (d) That the proposed entertainment will comply with all applicable rules, regulations, ordinances and state laws.
  - (e) If the applicant is a corporation, that it is licensed to do business and is in good standing with the State of Wisconsin.
  - (f) That the applicant holds a Class "B" fermented malt beverage or intoxicating liquor license for the premises for which an entertainment license is sought and is otherwise entitled to a license under the provisions of this section.
- (3) Upon approval of the application by the Common Council, a license shall be issued to the applicant by the City Clerk. Any license issued under this section shall be nonassignable and nontransferable from person to person or from one premises to another.
- (4) Whenever an application is denied or held for further investigation, the City Clerk shall advise the applicant, in writing, of the action taken and the reasons for such action. The City Clerk shall also advise the applicant of the right to request that the Common Council review its determination pursuant to Chapter 227, Wis. Stats., pertaining to contested case procedures.

G. Expiration, transfer and lapse of license.

- (1) All licenses issued as herein provided shall expire on the 30th day of June of each year.
- (2) Any license issued pursuant to this section shall lapse and become void whenever the Common Council or licensee shall not renew the retail Class "B" fermented malt beverage or intoxicating liquor license or said license is revoked by the Common Council. If any such retail Class "B" license shall be suspended, the license issued under this section shall be deemed suspended for a like period, without further action by the Common Council.

- (3) No license or interest in a license may be transferred to any person, partnership or corporation. The transfer of a license or any interest in a license shall automatically and immediately revoke the license.
  - (4) A person wishing to purchase a business that possesses a tavern entertainment or music license may make application with the City Clerk for a retail Class "B" fermented malt beverage or intoxicating liquor license, together with a tavern entertainment or music license. The application shall be reviewed, issued and subject to appeal in the same manner as original applications, except that the location restrictions in Subsection B(2) shall not apply if the tavern held an entertainment license prior to passage of this section.
- H. Display of license. Any person licensed in accordance with the provisions of this section shall keep the license posted in a prominent place upon the licensed premises.
- I. Revocation, suspension or nonrenewal. A license may be suspended for a period not to exceed 90 days, revoked or not renewed by the Common Council for disorderly conduct upon the licensed premises or for any violation by the licensee, his or her agents or employees, of any provision of this section or any ordinance or law relating to the use or occupation of the licensed premises. If at any time a license is revoked, at least one year shall elapse before another license shall be given for the same premises or to the same licensee. Any revocation or suspension may be in addition to any forfeiture imposed under this section. The procedures set forth in § 125.12, Wis. Stats., shall apply to revocation, suspensions and nonrenewals of tavern music and entertainment licenses.
- J. Temporary permits.
- (1) A temporary tavern music permit or tavern entertainment permit may be issued by the City Clerk for a particular forty-eight-hour period, upon approval by the Common Council. The applicant must meet all criteria for license approval set forth in Subsection B. Application for any such permit shall be made in writing upon a form prescribed by and filed with the City Clerk in accordance with the provisions of Subsection C. Not more than 10 temporary permits for either tavern music or tavern entertainment shall be issued for the same premises in any license year expiring June 30. Subsequent to the issuance of an initial permit under this section for a premises, the City Clerk may issue additional permits for each premises as provided in this section and within the same license year, without further investigation of applications for any such premises and without the Council's approval for the entire period the license is held by the same individual or corporation and for the same licensed premises. A special permit, when issued, shall entitle the holder thereof, for a particular forty-eight-hour period, to the respective privileges accompanying the corresponding license provided for in this section. Any violation specified in Subsection F by the permit holder shall be deemed cause for suspension or denial of any further special permit privileges.
  - (2) The fee for permits issued pursuant to this section shall be as set forth under Chapter 169, Licenses and Permits, for temporary entertainment and amusement licenses.
  - (3) The permit fee shall accompany any application. In the event that the permit is denied, the fee shall be returned to the applicant.

- K. Penalties. Any person violating any provision of this section shall be subject to the penalty provisions of Chapter 1, General Provisions, § 1-19. The application of such penalty provisions to any licensee under this section shall be in addition to any nonrenewal, suspension, revocation or injunctive action against such licensee.
- L. Preexisting entertainment licenses and discontinuation of operation. Holders of Class "B" fermented malt beverage or intoxicating liquor licenses who also possess an entertainment license at the time of passage of this section are exempt from the location provisions in Subsection B(2). Any transfer of the entertainment license from the licensed premises to any other premises shall cause said entertainment license to lapse and become void. Any discontinuation in the operation of the licensed premises for a period of six months shall also cause the entertainment license to lapse and become void. A licensee whose license has lapsed and become void shall thereafter be subject to Subsection B(2).

**§ 121-10.1.<sup>5</sup> Temporary amusement and entertainment.**

- A. Every person conducting or engaging in the business of providing temporary or transitory amusement or entertainment shall be subject to the license fees imposed hereunder. Tavern licensees shall have one free dance per year and shall pay a fee as specified in Chapter 169, Licenses and Permits. Any person conducting a tavern dance shall obtain a permit from the City Clerk at least 48 hours in advance.
- B. Temporary amusement and entertainment licenses may be granted for the Labor Day Fair by the City Clerk or, if obtained after 5:00 p.m. on the Friday preceding Labor Day, by a Fair Commissioner or police officer. All other provisions for entertainment and amusement licenses shall apply.

ARTICLE II  
Amusement Devices  
[Adopted 8-5-1997 by Ord. No. 97-1461  
as Sec. 13.05 of the 1997 Code]

**§ 121-11. License required.**

- A. No operator shall lease, install or place amusement devices on any premises for use in the city except on premises established primarily for amusement of the public only on such premises after having obtained a license and paid the license fee therefor.
- B. No person shall possess and set up for use any amusement device without registering it with the City Clerk and paying the registration fee therefor.

**§ 121-12. Definitions.**

The following terms as used in this article shall be construed as follows:

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<sup>5</sup> Editor's Note: Ordinance No. 98-1498, adopted 6-2-1998, provided for the renumbering of this section [Section 13.03(5) of the 1997 Code] as Section 13.03(11), included here as § 121-10.1.

AMUSEMENT DEVICE — An electrically or mechanically coin-operated device used and operated solely for playing games of skill or for entertainment.

OPERATOR — Any person owning and operating one or more amusement devices set up for use in the city. Any person owning and operating an amusement device set up in his or her home or own place of business shall not be deemed an operator within the meaning of this article.

PLACES OF AMUSEMENT — Amusement parks, theaters, bowling alleys, taverns and restaurants.

POSSESSION — The physical presence of a prohibited device in any premises under the management or control of the person in charge as possessor.

**§ 121-13. Operator's licensee.**

- A. Any operator shall make application, in writing, to the Council for a license on such form as shall be prescribed by the City Clerk.
- B. The license fee shall be as specified in Chapter 169, Licenses and Permits, and shall be paid to the City Treasurer at the time of filing the application for a license. Licenses shall be granted by the Council only to persons of good moral character and to applicants having an established office in Milwaukee County where business records and new amusement devices may be inspected before and after registration. The applicants in their applications

(Cont'd on page 12109)



shall consent to reasonable inspection of their records and devices to determine ownership and character of the amusement devices to be operated and registered. The license period shall run from July 1 of each year and end on June 30 of each year.

**§ 121-14. Registration of amusement devices.**

- A. Any person owning any amusement device or maintaining or permitting the maintenance of any amusement device on premises owned or controlled by him or her shall register such amusement device as herein required. On or before July 1, every amusement device shall be registered with the City Clerk by the owner or possessor thereof. The registration fee shall be as stated in Chapter 169, Licenses and Permits, for each amusement device. Such registration fee shall be paid to the City Treasurer at the time of registration. The City Clerk shall require the registrant to submit such information as may be necessary to identify the amusement device so registered and shall issue to the registrant an appropriate registration symbol, so designed as to permit its secure attachment to the amusement device so registered. The registration fee for each year, or part thereof, shall be an amount equal to the original registration fee as herein provided. Nothing herein contained shall be construed to authorize the registration of any slot machine or gambling device.
- B. The City Clerk may transfer a registration symbol from one amusement device to another when evidence is presented showing that the use of the device previously registered has been discontinued during the year of registration and that the new amusement device which the symbol is proposed to be attached for registration is an amusement device within the definition of this article. The City Clerk shall keep an appropriate record of the registration of each amusement device, showing the name and number and such other information as he or she shall deem necessary concerning each machine registered, and also keep a similar record of the amusement devices for which transfers have been authorized.

**§ 121-15. Nonregistered devices.**

Any city police officer may seize or cause to be seized any amusement device upon which is not affixed a registration symbol as herein required. The ownership or possession of any nonregistered amusement device set up for use shall be a violation of this article.

**§ 121-16. Counterfeiting or transferring registration symbol.**

No person shall counterfeit a registration symbol or transfer such registration symbol from one amusement device to another without having previously registered such transfer with the City Clerk.

**§ 121-17. Violations and penalties.**

In addition to the suspension or revocation of any license or permit granted under this article, any person who shall violate any provision of this article shall be subject to a penalty as provided in Chapter 1, General Provisions, § 1-19.